

REMARKS

This paper is filed in response to the Final Office Action mailed October 16, 2007.

Claims 1-13, 16-23, and 26-32 are pending in this application. Claims 1-13, 16-23, and 26-32 were rejected under 35 U.S.C. § 112, first paragraph, for lacking sufficient written description to show that the inventor had possession of the claimed invention. Claims 2-6 and 20 were rejected under 35 U.S.C. § 112, second paragraph, as lacking antecedent basis for “the adaptive pressure threshold value.” Claims 19-23, 28, 30, and 32 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-3, 5-13, 16, 17, 19-23, 26, 27, 29-32 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,880,411 to Gillespie et al (“Gillespie”). Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of U.S. Patent Publication 2003/0063073 to Geaghan et al (“Geaghan”). Claims 18 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable to Gillespie in view of U.S. Patent No. 6,118,435 to Fujita et al (“Fujita”). A portion of the specification was objected to for being confusing and awkward.

Applicant has amended claims 1, 19, 31, and 32. No new matter is added by these amendments and support may be found in the specification and claims as originally filed.

Applicant respectfully traverses each of the rejections and objections within the Office Action, and requests reconsideration and allowance of all claims based on the amendments above and the remarks below.

I. Objection to the Specification

The following portion of the specification was objected to for being confusing and awkward as computer-readable media allegedly do not have any transmit capability:

“various other forms of computer-readable media may transmit or carry instructions to a computer, including a router, private or public network, or other transmission device or channel, both wired and wireless” Office Action, p. 2.

Respectfully, some computer-readable media have the ability to transmit. For example, various solid-state memory devices, including ROM (including devices such as EPROMs and EEPROMs), RAM, and ASICs include the capability to transmit data stored within their memory portions. Each of these devices is a computer-readable media, and each has transmit capability. Further, the devices recited in the quoted portion of the specification are known to include computer-readable media, such as, without limitation, RAM, ROM, and/or ASIC devices. As such, the quoted portion of the specification is clear and accurate. Applicant respectfully requests the Examiner withdraw the objection to the specification.

II. § 112, first paragraph – Claims 1-13, 16-23, and 26-32

The Examiner rejected claims 1-13, 16-23, and 26-32 for omitting steps of the method disclosed within the specification. Applicant has amended claims 1 and 19 to include the omitted steps. Applicant respectfully requests the Examiner withdraw the rejection of claims 1 and 19. Further, because claims 2-13, 16-18, 20-23, and 26-32 each depend from either claim 1 or 19, each of these claims now includes the previously-omitted steps. Applicant respectfully requests the Examiner withdraw the rejection of claims 2-13, 16-18, 20-23, and 26-32.

III. § 112, second paragraph – Claims 2-6 and 20

The Examiner has rejected claims 2-6 and 20 for lacking antecedent bases for “the adaptive pressure threshold.” Respectfully, Applicant had previously amended claims 2-6 to depend from claim 31, which provides antecedent basis for “the adaptive pressure threshold.” Applicant had also previously amended claim 20 to depend from claim 32, which provides antecedent basis for “the adaptive pressure threshold.” Applicant respectfully requests the Examiner withdraw the rejection of claims 2-6 and 20.

IV. § 101 – Claims 19-23, 28, 30, and 32

The Examiner rejected claims 19-23, 28, 30, and 32 for claiming a signal per se, which is unpatentable subject matter under current Federal Circuit case law. Respectfully, the definition of computer-readable medium within the specification does

not include a signal per se. The quoted portion of the specification from paragraph 20 recites in relevant part:

“various other forms of computer-readable media may transmit or carry instructions to a computer, including a router, private or public network, or other transmission device or channel, both wired and wireless.”

Each of the elements recited in the quoted portion are tangible devices. A router is a well-known networking device that includes computer-readable media, such as memory chips. Public and private networks are likewise tangible systems comprised of routers, switches, computers, and other devices that are communicatively connected together. Each of these tangible, non-signal component devices is capable of storing, transmitting, or carrying instructions to a computer. Other transmission devices or channels are likewise tangible devices that are capable of transmitting, storing, or carrying instructions to a computer. However, none of these tangible devices is a signal.

The Examiner cites to the Federal Circuit’s decision in In re Nuijten¹ to support the rejection of claims 19-23, 28, 30, and 32.² However, the decision in Nuijten was direct to a claim to a signal per se:

“*A signal with embedded supplemental data, the signal being encoded in accordance with a given encoding process and selected samples of the signal representing the supplemental data, and at least one of the samples preceding the selected samples is different from the sample corresponding to the given encoding process.*”³

While the claims directed to a signal *per se* were rejected in Nuijten’s application, several other independent claims were allowed, including a storage medium having a signal stored on it.⁴ Similar to Nuijten’s application, the present application recites claims to a storage medium: a computer-readable medium. Nuijten does not stand for the proposition that such a storage medium is unpatentable subject matter. To the contrary, the storage medium claims in Nuijten’s application were allowed by the Patent Office. Thus, because a computer-readable medium, as set forth in the specification, is a storage medium for program code, it is not a signal per se, but only a device capable of storing,

¹ 500 F.3d 1346 (Fed. Cir. 2007).

² Office Action mailed October 16, 2007, p. 8.

³ Nuijten, 500 F.3d at 1351 (emphasis in original).

⁴ Id.

transmitting, or carrying instructions to a computer, Nuijten is not relevant case law. Further, because claims 19-23, 28, 30, and 32 do not claim signals per se, each claims patentable subject matter. Applicant respectfully requests the Examiner withdraw the rejection of claims 19-23, 28, 30, and 32.

V. § 102(b) – Gillespie – Claims 1-3, 5-13, 16, 17, 19-23, 26, 27, and 29-32

Applicant respectfully traverses the rejection of claims 1-3, 5-13, 16, 17, 19-23, 26, 27, and 29-32 under 35 U.S.C. § 102(b) as being anticipated by Gillespie.

To anticipate a claim under 35 U.S.C. § 102(b), a reference must disclose each and every element of the claimed invention. See M.P.E.P. § 2131.

Because Gillespie does not disclose “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in amended claim 1, Gillespie does not anticipate claim 1. First, Gillespie does not disclose “if the velocity is less than a velocity threshold.” The Examiner has cited column 36, lines 26-47 of Gillespie as disclosing this aspect of claim 1. Column 36, lines 26-47 recite:

“A true drag can be identified if the finger's speed of motion prior to lift-off is above a small threshold. A press can be identified if the finger was stationary through the entire gesture, possibly ignoring small, inconsequential movements”

However, this does not disclose “if the velocity is less than a velocity threshold.” The phrase “small, inconsequential movements” describes a distance, not a velocity. The movements can be at an extremely high velocity, so long as they are “small and inconsequential.” Thus, Gillespie does not disclose “if the velocity is less than a velocity threshold.”

Further, Gillespie does not disclose “if ... the change in pressure is greater than a change in pressure threshold.” Gillespie discloses a pressure threshold, as can be seen in Figure 19, but not a change in pressure threshold. Thus, Gillespie does not anticipate claim 1. Applicant respectfully requests the Examiner withdraw the rejection of claim 19

Like claim 1, amended claim 19 recites “outputting a press signal if the velocity is less than the velocity threshold, the change in pressure is greater than a change in

pressure threshold, and a first interval has elapsed.” Gillespie does not anticipate claim 19 for at least the same reasons as claim 1. Applicant respectfully requests the Examiner withdraw the rejection of claim 19

Further, because claims 2-13, 16-18, 20-23, and 26-32 each depend from and further limit either claim 1 or 19, each of these claims is patentable over Gillespie for at least the same reasons. Applicant respectfully requests the Examiner withdraw the rejection of claims 2-13, 16-18, 20-23, and 26-32.

VI. § 103(a) – Gillespie in view of Geaghan – Claim 4

Applicant respectfully traverses the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Geaghan.

To reject a claim under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. *See* M.P.E.P. § 2143.03.

Because Gillespie in view of Geaghan does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in amended claim 1, from which claim 4 depends, claim 4 is patentable over the combined references. As discussed above, Gillespie does not teach or suggest the recited claim element. Further, Geaghan does not cure this deficiency.

Geaghan was cited for teaching an adjustable pressure threshold. However, this does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in amended claim 1, from which claim 4 depends. Thus, claim 4 is patentable over Gillespie in view of Geaghan. Applicant respectfully requests the Examiner withdraw the rejection of claim 4.

VII. § 103(a) – Gillespie in view of Fujita – Claims 18 and 28

Applicant respectfully traverses the rejection of claims 18 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Fujita.

To reject a claim under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. *See* M.P.E.P. § 2143.03.

Because Gillespie in view of Fujita does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in amended claim 1, from which claim 18 depends, claim 18 is patentable over the combined references. As discussed above, Gillespie does not teach or suggest the recited claim element. Further, Fujita does not cure this deficiency.

Fujita was cited for teaching the use of haptic effects. However, this does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in amended claim 1, from which claim 18 depends. Thus, claim 18 is patentable over Gillespie in view of Fujita. Applicant respectfully requests the Examiner withdraw the rejection of claim 18.

Like claim 1, amended claim 19, from which claim 28 depends, recites “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Claim 28 is patentable over Gillespie in view of Fujita for at least the same reasons as claim 18. Applicant respectfully requests the Examiner withdraw the rejection of claim 28.

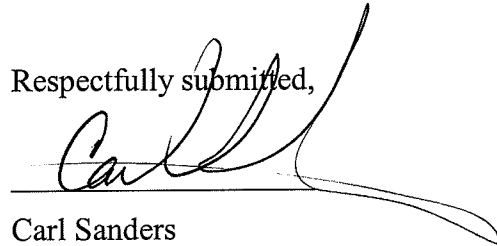
CONCLUSION

Applicant respectfully asserts that in view of the amendments and remarks above, all pending claims are allowable and Applicant respectfully requests the allowance of all claims.

Should the Examiner have any comments, questions, or suggestions of a nature necessary to expedite the prosecution of the application, or to place the case in condition for allowance, the Examiner is courteously requested to telephone the undersigned at the number listed below.

Date: 1/16/2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Carl Sanders', is written over a horizontal line.

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